



**TENNESSEE
COLLECTION SERVICE BOARD
MINUTES**

DATE: November 4, 2008

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Board Members:
Bart Howard, Chairman
Elizabeth Trinkler
Worrick Robinson

PRESENT: Staff Members:
Donna Hancock, Interim Director
Terrance Bond, Staff Attorney
Judy Elmore, Administrative Assistant

GUESTS:

CALL TO ORDER:

Chairman Howard called the meeting to order and the following business was transacted:

Interim Director Donna Hancock called the roll.

MOTION was made by Worrick Robinson, seconded by Elizabeth Trinkler, to adopt the meeting agenda as presented.

MOTION CARRIED

PASSIVE DEBT BUYERS

MOTION was made by Warrick Robinson and seconded by Elizabeth Tinkle for the Collection Board to issue their opinion on Passive Debt Purchasers and Buyers. Staff Attorney Terrance will draft the opinion for the Board's review and approval at their next meeting.

MOTION CARRIED

MINUTES

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to *approve the minutes of September 11, 2008 meeting as written.*

MOTION CARRIED.

NACARA REPORT

This discussion was continued until the January 2009 meeting.

LEGAL REPORT---TERRANCE BOND, STAFF ATTORNEY

DISCLAIMER

This Board is in no way responsible for the contents of the legal report. The report is presented to the Board by the Staff Attorney, Terrance Bond.

Changes:

Item 14: Attempt to contact the creditor that the Respondent claims they are collecting for.

Item 27: Send a final letter to Respondent's counsel advising them that the case will be re-opened if any principal of the Respondent agency resurfaces with a new agency.

Item 29: Close the file and flag.

NEW UNPRESENTED CASES:

1. L08-CSB-RBS-200802153-1

Complainant alleges that Respondent failed to provide her with written confirmation that her account has been legally settled in full. Respondent states that the account was settled and that it will provide written confirmation to the Complainant of same.

Prior History: One (1) prior complaint re: validation, dismissed, one (1) complaint pending disposition.

Recommendation: Close with no action.

Board: Concurs.

2. L08-CSB-RBS-200801968-1

Complainant alleges that Respondent failed to respond to her timely, written (via certified mail) request for validation of a debt that Respondent asserted she owed. Respondent states that it never received the written request for validation and could not obtain proof from the USPS regarding where (to what address) the alleged letter was delivered. Respondent states further that it did cease all activity after being verbally notified by the Complainant that she had mailed a dispute letter to them and that it provided validation of the debt subsequent to the verbal notice.

Prior History: Three (3) prior complaints in 2008 for failure to honor a payment agreement (dismissed), threatening criminal prosecution against a debtor (formal hearing authorized and settlement offered via Consent Order and \$2,000.00 civil penalty—settlement accepted), disposition is pending on the third complaint.

Recommendation: Close with no action.

Board: Concurs.

3. L08-CSB-RBS-200802154-1

Complainant states that it disputes the account that Respondent is attempting to collect and that he objects to the manner in which the Respondent pursued its collection efforts against him. (The Complainant feels that the Respondent should have investigated the legitimacy of the debt prior to contacting him.) The Respondent states that it ceased all activity relative to the Complainant's account after receiving a dispute letter from him and has returned the account to its client.

Prior History: Prior History: Three complaints total from 2004-2006 for: 1) abusive language, 2) attempting to collect a disputed debt and 3) violation of a "CEASE and DESIST" request from a debtor. All three complaints were dismissed upon further response from Respondents' counsel. A 2007 complaint alleging illegal contact with a debtor was dismissed upon verification of private settlement between the licensee and the debtor and a 2008 complaint alleging collection of a disputed account was dismissed upon response from Respondent's counsel indicating that Respondent did CEASE and DESIST collection activity once notified of the dispute.

Recommendation: Close with no action.

Board: Concurs.

4. L08-CSB-RBS-200801995-1

Complainant alleges that Respondent is harassing him by continuing to call him concerning an account that he does not owe. Complainant states that Respondent has called him once a day over a period of seven (7) months. Respondent states that its client

continued to indicate that the Complainant was responsible for the past due account and that the account was returned to the client after receiving notice of the Complainant's dispute and complaint. According to Respondent, its client requested a complete recall of the account after Respondent returned the account for dispute verification. Respondent states that it is not aware of the reason that its client requested closure and return of the Complainant's alleged account, but that it has requested removal of its tradeline from the Complainant's credit report. Respondent provided a copy of the UDF for the Complainant.

Prior History: One (1) prior complaint in 2008, alleging erroneous billing by a first party (dismissed).

Recommendation: Close with no action.

Board: Concurs.

5. L08-CSB-RBS-200801675-1

Complainant alleges that Respondent has contacted her concerning an account that does not belong to her. Respondent states that it has now removed the Complainant's telephone number from its records, but that it "cannot guarantee" that the phone number will not be associated with the account again, if it is revealed during skip tracing.

Prior History: None

Recommendation: Authorize formal hearing with authority to settle by Consent Order and civil penalty of \$1,000.00 and an order to permanently CEASE and DESIST using the Complainant's telephone number and engaging in unlicensed activity in Tennessee.

Board: Concurs.

6. L08-CSB-RBS-200802022-1

Complainant alleges that Respondent is trying to collect a debt from him that "exceeded the statute of limitations" for such debt.

Prior History: Two (2) previous complaints 1)Unlicensed activity (2006), paid \$1,000.00 civil penalty, became licensed in December 2006. 2) Failure to provide required validation documents/information. Respondent provided documentation indicating that the Complainant's request came far outside the validation window and that validation had been provided within the initial communication notice, which was not returned. (2007) The complaint was dismissed.

Recommendation: Close with no action.

Board: Concurs.

7. L08-CSB-RBS-200802054-1

Complainant states that the Respondent made an inquiry on his credit report and alleges that he has no collection accounts and that Respondent's inquiry was unwarranted. Respondent states that it made an inquiry pursuant to its efforts to collect a debt arising from a defaulted student loan in the name of the Complainant and that its inquiry was legitimate.

Prior History: Two (2) prior complaints in 2008 re: validation (dismissed) and failure to verify settlement (dismissed).

Recommendation: Close with no action.

Board: Concurs.

8. L08-CSB-RBS-200800318-1

Complainant alleges that Respondent is not providing proper validation of the debt that it asserts he owes. Respondent did not respond to the complaint, but the Complainant provided a collection notice from Respondent whereupon the Respondent provided the name of the creditor, amount due, the original claim number and policy numbers which were associated with the delinquent account.

Prior History: None.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and \$1,000.00 civil penalty.

Board: Concurs.

9. L08-CSB-RBS-200802039-1

Complainant disputes Respondent's attempts to collect a past due account from her that she alleges has been paid in full. Respondent states Complainant does owe a past due account, and is mistaken as to which account the Respondent is attempting to collect from her. Respondent advises that the Complainant should contact them if she needs further clarification regarding the validity of the past due account.

Prior History: None.

Recommendation: Close with no action.

Board: Concurs.

10. L08-CSB-RBS-200802027-1

Complainant states that he attempted to dispute Respondent's collection efforts and that Respondent threatened to make adverse reporting to credit bureaus concerning his

allegedly past due account. Complainant states further that he would like a refund of monies paid to the creditor due to poor quality of service received. Respondent states that it noted the Complainant's dispute once he made them aware of it and that it has chosen to return the account to the creditor and close the Complainant's file.

Prior History: None.

Recommendation: Close with no action.

Board: Concurs.

11. L08-CSB-RBS-200802024-1

Complainant alleges that Respondent, who is a first-party lender, continues to call him concerning an account that does not belong to him.

Prior History: Not Applicable.

Recommendation: Close with no action.

Board: Concurs.

12. L08-CSB-RBS-200801433-1

Board office received information that Respondent has either been soliciting clients in Tennessee or may have engaged in unlicensed collection activity toward Tennessee resident. A representative of Respondent stated that Respondent "may" have some clients in Tennessee, but couldn't confirm whether such was the case. The representative agreed to contact me with clarification, but has failed to do so.

Prior History: None.

Recommendation: Send a CEASE and DESIST letter.

Board: Concurs.

13. L08-CSB-RBS-200800635-1

Complainant alleges that Respondent violated the FDCPA when it contacted his wife and solicited payment from her concerning an account which had already been paid.

Complainant also asserts that the Respondent failed to advise his wife of the purpose of the call and failed to identify itself as a debt collector. Respondent states that it was not acting as a collection agency at the time it placed the call, but rather was offering "extended business environment" services to its client, wherein it would contact persons indebted to its client and remind them of their outstanding obligations to the client.

Respondent provided a copy of its contract with its client, which provides, in pertinent part, that Respondent will "as an agent of CLIENT, contact insurance companies and patients in regards to *slow pay or denied insurance claims* for the purpose of resolving the claim for payment, adjustments or for purpose of confirming claim is denied as

patient balance due on specified aged accounts greater than 120 days as of 9/21/07.” The contract further states that “[Respondent] will, as an agent of CLIENT, provide *extended business office services for patient balances not yet deemed delinquent* by CLIENT.” With regard to payment, the contract specifies that “In exchange for services, CLIENT will pay [Respondent] according to the following schedule. \$xx.xx per account for resolving slow-pay, unfiled or denied insurance claims; 23% of amount(s) recovered through servicing accounts in extended business office environment.”

Prior History: None.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and \$2,000.00 civil penalty.
Board: Concurs.

14. L08-CSB-RBS-200801618-1

Board received information that Respondent has contacted various consumers and demanded payment of money from them for allegedly past due accounts that Respondent was attempting to collect. Consumers allege that in many cases, Respondent accused them of committing a crime via non-payment of the alleged debt and advised that they would send police to their respective places of business to have them arrested if payment was not received by the end of the day on which Respondent placed the call. Respondent has stated that they have a business location in Memphis, Tennessee, but the address that Respondent has provided is fictitious and it appears that Respondent may actually be located in an area outside the United States.

Prior History: None.

Recommendation: Close the file and notify the Shelby County prosecutor’s office as well as the Federal Trade Commission regarding the Respondent’s activities.
Board: Concurs.

15. L08-CSB-RBS-200801335-1

Complainant alleges that Respondent, a first-party creditor, released her account to a collection agency even though she was making regular monthly payments.

Prior History: None, not applicable

Recommendation: Close with no action.
Board: Concurs.

16. L08-CSB-RBS-200801731-1

Complainant states that Respondent called him and requested to speak to an individual that he does not know. Complainant alleges that Respondent continued to call him after

he advised them that the individual Respondent was searching for was not reachable using his contact information and referred to him during a conversation as if he were the husband of the person Respondent was trying to locate. Respondent states that the Complainant's phone number was removed from the consumer's account once an unidentified individual informed them that the number was not good contact information for the consumer. Respondent states that no additional calls took place after the Complainant gave notice. Respondent provided account notes for the account in question, which indicate that several outbound calls to the Complainant's number were attempted but unsuccessful beginning in December 2007. The records further indicate that Respondent received one (1) inbound call from an unidentified person at the Complainant's telephone number on July 24, 2008, and that the Complainant's phone number was blocked from Respondent's outbound dialer on the day that the inbound call was received.

Prior History: Three (3) prior complaints in 2008 for failure to honor a payment agreement (dismissed), threatening criminal prosecution against a debtor (formal hearing authorized and settlement offered via Consent Order and \$2,000.00 civil penalty—settlement accepted), disposition is pending on the third complaint.

Recommendation: Close with no action.

Board: Concurs.

17. L08-CSB-RBS-200800789-1

Complainant alleges that Respondent solicited payment from him and intentionally terminated a collection call wherein the Complainant informed the Respondent that he was under a doctor's care and would not be able to make payment immediately. Respondent states that it has not violated the law in any way and that it will treat Complainant's account as disputed and cease any further collection efforts.

Prior History: None.

Recommendation: Close with no action.

Board: Concurs.

18. L08-CSB-RBS-200801464-1

Complainant alleges Respondent called her and left a recorded message for a person whom she does not know. Complainant states that she called Respondent and informed them that she was not the individual they were attempting to locate.

Prior History: None.

Recommendation: Close with no action.

Board: Concurs.

19. L08-CSB-RBS-200701860-1

Complainant alleges that Respondent called her at work and threatened criminal legal action against her relative to a debt Respondent alleged she owed. Respondent states that it has no record of the Complainant's address, telephone number or name in its records and that no person by the name (alias or real) referenced in the Complainant's complaint works for their office. Respondent states that Complainant may have confused them with another agency. On the Complaint form that Complainant completed, the telephone number provided for Respondent is inconsistent with the geographic location of the Respondent's business office.

Prior history: None.

Recommendation: Close with no action.

Board: Concurs.

20. L08-CSB-RBS-200801039-1

Complainant alleges Respondent was rude to her during a collection call and refused to allow her to speak to a supervisor when she requested to do so. Respondent states that the Complainant became upset during the collection call when the Respondent disclosed the purpose of the call to the Complainant. Respondent states that it has closed the account and returned it to the creditor in light of the Complainant's dispute and that it "takes unprofessional behavior very seriously."

Prior History: One (1) prior complaint (2008) re: violation of a verbal "cease communication" request. (dismissed).

Recommendation: Authorize formal hearing with authority to settle by Consent Order and civil penalty of \$500.00.

Board: Concurs.

21. L08-CSB-RBS-200800787-1

Complainant alleges that a collection account arose in their name due to fraud and was assigned to Respondent. Respondent states that it is now aware of the Complainant's dispute and has closed the Complainant's account file and will not be making any future contact with the Complainant regarding the collection account.

Prior History: One (1) prior complaint (2007) re: telephone harassment, pending disposition.

Recommendation: Close with no action.

Board: Concurs.

22. Case No. L-08-CSB-RBS-2008006631

Complainant alleges that Respondent refused to validate a debt upon his request after Respondent demanded payment of the debt from him. Respondent states that it has responded to Complainant's dispute and that Respondent has admitted responsibility for the debt and has satisfied the outstanding balance prior to this date.

Prior History: None.

Recommendation: Authorize formal hearing with authority to settle by Consent Order and civil penalty of \$1,000.00.

Board: Concurs.

23. Case No. L-08-CSB-RBS-200801942-1

Complainant disputes the addition of collection charges to his outstanding past due account balance. Respondent provided a billing authorization form, signed by the Complainant, indicating his consent to the addition of collection costs, among other things, to any outstanding balance requiring collection.

Prior History: None.

Recommendation: Close with no action.

Board: Concurs.

24. Case No. L-08-CSB-RBS-200800571-1

Complainant alleges that he was not notified of past due balances that were due to Respondent prior to Respondent entering derogatory information on his credit report. Respondent indicates that it attempted to contact the Complainant via mail and telephone after receiving assignment of the accounts, but mail was returned and the last known phone number for the Complainant was disconnected. The Respondent states that it mailed a new validation notice to the Complainant upon receiving notice of his complaint. Respondent states further that, in light of the Complainant's complaint, it has requested deletion of its tradeline from the Complainant's credit report.

Prior History: None.

Recommendation: Close with no action.

Board: Concurs.

25. Case No. L-08-CSB-RBS-200708625-1

Complainant alleges that Respondent is harassing him by demanding payment from him concerning an account that he does not owe. Complainant states that Respondent has

placed his telephone number on an “auto-dialer” and has requested that he provide his social security number during collection calls, which he refused to provide. Respondent states that it received information from its client indicating that the Complainant was responsible for the past due account and that collection efforts should be initiated. Respondent states that it attempted to verify Complainant’s identity, but the Complainant refused to cooperate with the attempts to confirm his identity. Respondent states that it has closed the account and returned it to its client in light of the Complainant’s dispute.

Prior history: One (1) other complaint, disposition pending.

Recommendation: Close with no action.

Board: Concurs.

26. Case No. L-08-CSB-RBS-200802077-1

Respondent failed to provide trust account information on its collection service license renewal applications for a period of six (6) years, beginning in 2002. Counsel for the Respondent advises that the failure to provide the required information was unintentional and that amounts collected have always been held in trust as required by law. Respondent states that the previous renewal statements were prepared by individuals without sufficient knowledge of the Respondent’s collection practice (as Respondent provides all servicing needs for its clients in addition to collection of past due accounts) and who were not aware of the collection trust accounts’ existence. Respondent provided documents indicating the existence of distinct trust accounts for each client whose past due accounts it services and has provided written assurance that while it may have failed to report its trust account activities, trust accounts have always been maintained in the manner prescribed by law and amounts due to clients have always been properly and timely remitted from the trust accounts.

Prior History: None.

Recommendation: Authorize formal hearing with authority to settle by Consent Order agreeing to prepare all future renewal applications accurately, completely and in accordance with applicable law.

Board: Concurs.

OLD RE-PRESENTED CASES:

27. Case No. L-08-CSB-RBS-200801671-1

Board voted at September meeting to authorize formal proceedings and granted authority to settle by Consent Order and payment of a \$6,000.00 civil penalty a complaint against Respondent which alleged several violations of the FDCPA and TCSA. Respondent was also unlicensed in Tennessee. Counsel for Respondent has provided an affidavit signed by the Respondent’s principal indicating that Respondent is winding down its affairs and will cease doing business in the state of its incorporation and will not re-establish its

operation in another location. Counsel also provided a duly executed Notice of Dissolution that Respondent prepared and submitted to the Secretary of State of its state of incorporation.

Recommendation: Close and flag the licensee file.

Board: Concurs.

28. Case No. L-07-CSB-RBS-200707180-1

Complainant states that Respondent failed to provide documentation concerning the collection account and that Respondent communicated with third parties without his authorization. Respondent provided an account notes summary which reflected that documentation was mailed and that Respondent did speak with the Complainant's wife on several occasions.

Recommendation: Close with no action.

Board: Concurs.

29. Case No. L-07-CSB-RBS-200708840-1

Board previously authorized deferment of consideration due to pending class action concerning this case, wherein Complainants alleged that Respondent violated the FDCPA by attempting to collect amounts from them which had been discharged in bankruptcy. The Board office has received no information indicating that a final settlement of the class action has been reached or that final judgment has been entered against the Respondent, and no residents of the State of Tennessee have filed similar claims against Respondent and none are named in the pending class action.

Recommendation: Close. If additional information is received regarding settlement, final judgment or any admissions of liability from Respondent, re-open.

Board: Concurs.

30. Case No. L-06-CSB-RBS-200601938/9-1

Board previously authorized formal hearing against Respondent for unlicensed activity. It now appears that Respondent has cease doing business in the state of its former operation.

Recommendation: Close with no further action.

Board: Concurs.

31. Case No. L-06-CSB-RBS-200602696-1

Board previously authorized formal hearing against the Respondent for unlicensed activity. It now appears that Respondent is associated with a licensed attorney in the state

of its operation and no additional complaints have been filed alleging unlicensed activity in the State of Tennessee since a CEASE and DESIST letter was sent in August of 2006.

Recommendation: Close with no further action.

Board: Concurs.

32. Case No. L-06-CSB-RBS-200600515-1

Board previously authorized formal hearing against the Respondent for unlicensed activity. No additional complaints have been filed against Respondent and the board office has received no additional information regarding Respondent's unlicensed activity since the Respondent was ordered to CEASE and DESIST its activities in August of 2006.

Recommendation: Close with no further action.

Board: Concurs.

33. Case No. L-07-CSB-RBS-200708801-1

Board previously authorized formal hearing against Respondent for allegedly initiating unauthorized third party contact with the Complainant, whose son had an account which had been placed with the Respondent for collection. Counsel for Respondent provided account notes indicating that the Complainant's son gave express permission to the Respondent to contact his mother for purposes of making payment arrangements on his behalf relative to the past due account that Respondent was seeking to collect.

Recommendation: Close with no further action.

Board: Concurs.

34. Case No. L-07-CSB-RBS-200705346-1

Board previously authorized formal hearing against Respondent for engaging in unlicensed activity in Tennessee. Respondent indicated in correspondence to the Board that it would CEASE and DESIST activity and direct the account in question to the attention of a Tennessee-licensed attorney for further action. The board office has received no additional information regarding the Respondent's unlicensed activity since August of 2007.

Recommendation: Close with no further action.

Board: Concurs.

STEPHEN DIAUTE-----CLARIFICATION ON LICENSE REQUIREMENT

Attorney Bond presented a letter from Mr. Stephen Diaute requesting a summary concerning the licensing requirement to call into the state of Tennessee for collection activity and a ruling on the activity they would be engaging in is technically collections.

The consensus of the Collection Service Board was that the agency would have to be licensed in the state of Tennessee.

ADMINISTRATIVE ISSUES---INTERIM DIRECTOR, DONNA HANCOCK

Ms. Hancock presented the Board with a report of open complaints. She stated that there are 77 open complaints with 31 being older than 180 days.

REVIEW OF APPLICATIONS

Jeffrey L. Ivey

Mr. Ivey is requesting a waiver of the re-examination to become licensed as a location manager. He previously held a location manager license but failed to renew them in a timely manner.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to deny the request pursuant to T.C.A. §62-20-112 (4)(d) and T.C.A. §62-20-108(C).

MOTION CARRIED

Lacey Dee Cooley

This application was presented to the Collection Service Board due to applicant answering yes to the question on the application "Have you ever had accounts placed with an attorney or collection agency for collection"?

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to deny the application pursuant to T.C.A. §62-20-125(3) no location manager shall be issued to any person who is not financially responsible.

MOTION CARRIED

Greg Singer

This application was presented to the Board due to the credit report showing several accounts past due. Mr. Singer also answered no to the question on the application "Have you ever had accounts placed with an attorney or collection agency for collection"?

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to deny the application pursuant to T.C.A. §62-20-125(3) no location manager shall be issued to any person who is not financially responsible.

MOTION CARRIED

John A. Price

This application was presented to the Board due to the applicant stating several of the debts appearing on his credit report is not his, but, there is nothing showing the accounts have been

disputed. Mr. Price also answered "no" to the question on the application "Have you ever had accounts placed with an attorney or collection agency for collection"?

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to deny the application pursuant to T.C.A. §62-20-125(3) no location manager shall be issued to any person who is not financially responsible.

MOTION CARRIED

Demian Daniel Shumaker

This application was presented to the Board due to the credit report showing several accounts past due. Mr. Shumaker also answered "no" to the question on the application "Have you ever had accounts placed with an attorney or collection agency for collection"?

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to deny the application pursuant to T.C.A. §62-20-125(3) no location manager shall be issued to any person who is not financially responsible.

MOTION CARRIED

Tracy Lynn Dollas

This application was presented to the Board due to the credit report showing several accounts past due. Ms. Dollas also answered yes to the questions "Within the past seven (7) years have you filed a petition under the Federal Bankruptcy Laws or State Insolvency Laws, or has had a receiver, fiscal agent, or similar officer appointed by a Court for your business or property? And, Have you ever had accounts placed with an attorney or collection agency for collection"?

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to defer this application until the January 6, 2009 meeting and request additional information on the bankruptcy and the AmeriCredit account on the credit report.

MOTION CARRIED

Rodolfo Rodriguez, Jr. aka Rudy

Mr. Rodriguez has submitted the information per the direction of the Board at the September 9, 2008 meeting pertaining to the "charge off" from the Capitol One account. The Board reviewed the requested information and determined that Mr. Rodriguez must submit a current credit report to be presented at the January 6, 2009 meeting.

MOTION was made by Elizabeth Trinkler and seconded by Worrick Robinson to request a current credit report.

MOTION CARRIED

OLD BUSINESS

There was no Old Business to discuss.

NEW BUSINESS

Ms. Hancock stated that she spoke to Ms. Ann Strong, former member of the Board, she stated she would like for the Board to present the plaque to her at the January 6, 2009 meeting.

MOTION was made by Worrick Robinson and seconded by Elizabeth Trinkler to adjourn.

MOTION CARRIED. Meeting Adjourned.

Bart Howard, Chairman

Shannon Polen

Elizabeth Trinkler, Vice Chairman

Worrick Robinson

Harold Nichols